

SUM-100

# SUMMONS (CITACION JUDICIAL)

## NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

Clarence G. Uher *an individual and Does.*  
*1 through 20, inclusive.*

## YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

Claremont Graduate University

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)  
**CONFORMED COPY**  
**ORIGINAL FILED**  
Superior Court of California  
County of Los Angeles

JUL 30 2015

Sherri R. Carter, Executive Officer/Clerk  
By Jacqueline Gonzalez, Deputy

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): Pomona Courthouse South

400 Civic Center Plaza  
Pomona, California 91766

CASE NUMBER:  
(Número del caso): **KC067811**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Jonathan M. Brenner, Sidley Austin LLP, 555 W. 5th St., Suite 4000, Los Angeles, CA 90013; 213.896.6000

DATE: July 30, 2015  
(Fecha)

**SHERRI R. CARTER**

Clerk, by  
(Secretario)

**J. GONZALEZ**

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons. (POS-010)).

[SEAL]

## NOTICE TO THE PERSON SERVED: You are served

1. ☒ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):  
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):
4. ☐ by personal delivery on (date):

**CASE ASSIGNED FOR  
ALL PURPOSES TO  
JUDGE D. OKI  
DEPT. "J"**

CONFORMED COPY  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

JUL 30 2015

Sherri R. Carter, Executive Officer/Clerk  
By Jacqueline Gonzalez, Deputy

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Los Angeles, California 90013  
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Attorneys for Plaintiff  
Claremont Graduate University

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES  
EAST DISTRICT – POMONA COURTHOUSE SOUTH

CLAREMONT GRADUATE UNIVERSITY,

Plaintiff,

v.

CLARENCE G. UHER, an individual; and  
DOES 1 through 20, inclusive,

Defendants.

Case No.

KC067811 J

COMPLAINT FOR DECLARATORY  
RELIEF

FILED FOR  
ALL PURPOSES TO  
JUDGE D. OKI  
DEPT. "J"



1 Plaintiff Claremont Graduate University ("CGU" or "Plaintiff") alleges for its Complaint  
 2 against Defendants Clarence G. Uher ("Uher" or "Defendant") and DOES 1 through 20 (with Uher,  
 3 "Defendants"), as follows:

#### 4 THE PARTIES

5 1. Plaintiff CGU is a nonprofit corporation duly incorporated under the laws of the state  
 6 of California. CGU is a private, all-graduate research university located in Claremont, California.  
 7 CGU offers advanced degrees in many academic fields, including among others, a degree of PhD in  
 8 Philosophy.

9 2. Defendant Uher enrolled as a student in CGU's Doctorate of Philosophy program in  
 10 1998. On information and belief, Defendant currently resides in Akron, Ohio.

11 3. The true names, identities and/or capacities of defendant(s) sued as DOES 1 through  
 12 20, inclusive, are unknown to CGU, and CGU sues said defendant(s) pursuant to section 474 of the  
 13 California Code of Civil Procedure. CGU is informed and believes, and on that basis alleges, that  
 14 each of the Defendants designated herein as "DOE" is legally and/or equitably responsible in some  
 15 manner for the events, transactions, occurrences, and happenings alleged here. CGU will amend this  
 16 Complaint to allege the true names and capacities of these fictitiously named Defendants when they  
 17 are ascertained.

18 4. CGU is informed and believes and thereon alleges that the defendants named herein,  
 19 and each of them, were at all times herein relevant the principals and/or agents of each of the  
 20 remaining defendants, and that in doing the things herein alleged, the defendants, and each of them,  
 21 were acting within the course and scope of said agency.

#### 22 JURISDICTION AND VENUE

23 5. Defendant was last enrolled as a student in CGU's philosophy program in Fall 2013.  
 24 CGU and its PhD in Philosophy program to which this dispute relates are located in Claremont,  
 25 California. Defendant took his coursework and much of his post-coursework studies for the program  
 26 at CGU's campus in Claremont, California. After completion of his coursework, on information and  
 27 belief, Defendant moved out of state. He continued to be enrolled in doctoral studies as a student in  
 28 CGU's PhD in Philosophy program in California through Fall 2013 and he paid a nominal tuition

1 amount to CGU in California while he pursued his degree. All of the professors and academic  
 2 faculty who oversaw Defendant's PhD coursework and who are currently overseeing his folio work  
 3 are located in California. CGU issues its degrees in California and pursuant to the California  
 4 Department of Education and rules and regulations promulgated by that agency.

5 6. Jurisdiction in this Court is proper, pursuant to California Code of Civil Procedure  
 6 section 410.10. Venue in this Court is proper, pursuant to California Code of Civil Procedure  
 7 section 395.

#### 8 **GENERAL ALLEGATIONS**

9 7. To be eligible to receive a PhD in Philosophy from CGU, all students must complete  
 10 required coursework (a minimum of 72 units), develop a set of folio papers in three areas of  
 11 competency, participate in an oral examination on the folio paper, complete two research tools,  
 12 prepare a dissertation, and participate in an oral defense of the dissertation.

13 8. Defendant has completed the necessary coursework for a PhD in Philosophy, as well  
 14 as his two research tool requirements, but Defendant has not yet satisfactorily completed the  
 15 proposals for the requisite folio papers, or other requirements in order to be awarded his PhD in  
 16 Philosophy by CGU. Determination of whether the requirements for a PhD degree have been met,  
 17 including whether a student is capable of performing dissertation-level work, is made by CGU and  
 18 its faculty in their sound discretion.

19 9. CGU has determined that Defendant has not yet satisfactorily completed the  
 20 proposals for the folio papers requirement for a PhD in Philosophy, along with subsequent  
 21 requirements. Defendant disagrees with CGU's assessment of his folio proposals, has accused CGU  
 22 of not properly handling his folio process, and has asserted that CGU is in breach of contract  
 23 regarding Defendant's participation in its PhD in Philosophy program. CGU disputes and disagrees  
 24 with Defendant's accusations and assertions.

#### 25 **FIRST CAUSE OF ACTION**

26 (For Declaratory Relief Against Defendant)

27 10. CGU realleges and incorporates by this reference each and every allegation contained  
 28 in paragraphs 1 through 10 above as if fully set forth herein.

11. An actual controversy has arisen and now exists between CGU, on the one hand, and Defendant, on the other hand, relating to whether CGU has the discretion to approve or not approve Defendant's folio proposals and whether CGU is in breach of contract (or otherwise liable to Defendant) in connection with the exercise of its discretion over Defendant's folio proposals and its involvement with Defendant in the folio process.

12. CGU desires a judicial determination regarding whether it is liable to Defendant for exercising its discretion to not approve his folio proposals as part of his work on a PhD in Philosophy. In particular, CGU requests a declaration that it is not liable to Defendant, under any theory of liability, for its discretionary decision not to approve his folio proposals.

13. Such a declaration is appropriate and necessary so that the respective rights and duties of CGU, on the one hand, and Defendant, on the other, may be determined, and so that said controversies may be set to rest. CGU also has no adequate remedy at law.

#### PRAYER FOR RELIEF

WHEREFORE, CGU prays for judgment against Defendant as follows:

1. For a judgment declaring that CGU has complete discretion to approve or not approve Defendant's folio proposals for the PhD in Philosophy program;

2. For a judgment declaring that Defendant has no cause of action against CGU related to CGU's discretionary decision to not approve Defendant's folio proposals;

3. For costs of suit incurred in this action; and

4. For such other and further relief as the Court deems just and proper.

Dated: July 30, 2015

SIDLEY AUSTIN LLP

By:

*Jonathan M. Brenner*  
Jonathan M. Brenner  
Attorneys for Plaintiff  
Claremont Graduate University